FOIP FOLIO

US BORDERS AND ENHANCED DRIVER'S LICENSES IN SASKATCHEWAN

SGI has announced that it will offer Saskatchewan residents something called an 'enhanced driver's licence' (EDL). The SGI news release is available at http://www.sgi.sk.ca/news_releases/2008/jul_30_2008.html. The plan is that the EDL will meet the U.S. requirements under the Western Hemisphere Travel Initiative when it goes into effect June 1, 2009.

Our office is reviewing the plan in light of research that has already been done by Privacy Commissioners in British Columbia (B.C.), Ontario, Quebec and Manitoba. In B.C. approximately 500 motorists already have EDLs.

Our initial response was our news release dated July 30, 2008. We will be guided by the resolution adopted February 2008 by all of Canada's national, provincial and territorial Privacy Commissioners. This resolution as well as our news release are available at www.oipc.sk.ca under the *What's New* tab. Our report on this SGI initiative should be completed this fall and will be publicly available at our website.

RIGHT TO KNOW (RTK) WEEK 2008

Right to Know Week in Saskatchewan is September 28 to October 3, 2008 - it's almost here. We encourage you to mark this in your calendar now. In the June/July FOIP FOLIO, we detailed the events to be held in Saskatoon and Regina. **Professor Alasdair Roberts**, an acclaimed international access to information expert, will be the keynote speaker on Tuesday, September 30, 2008.

Location: Johnson-Shoyama Graduate School of Public Policy, Window Room (Gallery Building, 2nd Floor, College Avenue and Cornwall Street)

Time: 4:00 p.m. - 6:00 p.m. reception to follow

Cost: free admission

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RTK 2008 (CONT'D)

This event will include a presentation of the *Justice E.M. Culliton Right to Know Award* (Culliton Award) and recognition of the winners of the essay competitions. A reception follows the presentations. If you are interested in entering the essay competitions (one for high school students and another for university/college students) or in nominating a public sector body for the Culliton Award, you can find full particulars at www.oipc.sk.ca under the *Right to Know* tab.

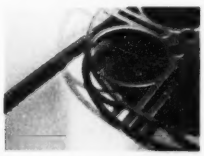
On Thursday, October 2, 2008, **Suzanne Legault**, Assistant Information Commissioner of Canada, will be speaking in Saskatoon.

Location: MLT Theatre at the College of Law, University of Saskatchewan

Time: 11:30 am - 12:30 pm

Cost: free admission.

A CINEMATIC TAKE ON FREEDOM OF INFORMATION



The Regina Public Library (RPL) has been a big supporter of RTK for the last two years. Once again, RPL will offer several provocative movies that highlight issues with respect to transparency and accountability. These movies can be seen Wednesday to Sunday evenings during RTK Week. These movies include such titles as:

- **Standard Operating Procedure:** An Errol Morris documentary about Abu Graibe and what the American public was told.
- **This Film is Not Yet Rated:** About the power of the MPAA and banning material and freedom of information.
- **Boy-A:** About the public's right to information about a young man who committed a hideous crime as a child but who is now out of prison where nobody knows about his crime until…

For more information visit www.rpl.regina.sk.ca.

FOR YOUR PRIVACY LIBRARY

As many western nations move towards intensified surveillance activity, more attention is being paid to identity cards and ID systems. An important contribution to public understanding of these issues is the new book, *Playing the Identity Card: Surveillance, Security and Identification in Global Perspective*. The authors are **David Lyon** and Professor **Colin Bennett** of the University of Victoria. For more information see http://www.routledgepolitics.com/books/Playing-the-Identity-Card-isbn9780415465649.

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MY PRIVACY AND ME

The Privacy Commissioner of Canada (PCC) is holding a national video competition for youth. Show why privacy is important to you and you could win an iPod Touch. The school with the most entries wins Adobe Creative Suite software.

The deadline for entries is Friday, December 12, 2008. For more information, visit www.privcom.gc.ca.

IT'S DÉJÀ VU ALL OVER AGAIN

For those of you who attended Prairie Health Information Privacy Day last April, you probably did a double take when you noticed that we were again advertising this conference. However, Prairie Health Information Privacy Day 2008 hosted by the Manitoba Ombudsman's Office, and the Offices of the Alberta and Saskatchewan Information and Privacy Commissioners has moved east to Winnipeg. This one day conference will be held at the Delta Winnipeg on October 22, 2008. This event is an exciting initiative for those organizations affected by health information privacy laws across Canada's three prairie provinces.

The early bird rate for conference registration is $334.95 until September 19, 2008 (price will increase $50 after this date).

Here's a taste of some of the topics/speakers:

ELECTRONIC HEALTH RECORDS (EHRs): CURRENT DEBATES AND FUTURE CONSIDERATIONS

Speakers: Leahann McElveen, Portfolio Officer, Alberta OIPC; **Joan Roch,** Chief Privacy Strategist, Canada Health Infoway; and our own **Christine Underwood,** Team Lead, Privacy/Data Access Services, Saskatchewan Ministry of Health.

The use of EHR systems is changing how health care is provided in Canada, and introduces new privacy questions that are currently being considered in every jurisdiction. Who should have access to EHRs? What are appropriate safeguards to protect health information? Who gets to decide how health information in an EHR is used? What are appropriate penalties for misuse of this information?

The speakers on this panel represent three organizations with differing perspectives on these issues – a Ministry that is moving ahead with EHR development, a strategic investor and a privacy regulatory body – and will share their thoughts on some of the current privacy issues they face in relation to EHR technologies and how these issues may continue to evolve as we move into a period of heightened EHR deployment.

STORIES FROM THE TRENCHES

Speakers: Leroy Brower, Director HIA – Alberta OIPC; **Diane Aldridge** Director of Compliance – Saskatchewan OIPC; and **Gail Perry**, Manager Research & Education – Manitoba Ombudsman Office

One of the most popular sessions last year was the panel featuring the investigative heads of each of the three provinces. This session featured stories and examples from the experience of each oversight office of not only best practices but the most frequent problems and mistakes made by trustees/custodians. Those three will again take a look at what problems and challenges attracted their attention since the last Prairie Health Information Privacy Day in April 2007.

FRIENDS, FAMILY, AND SURROGATES ... ACCESS OR DISCLOSURE?

Speaker: Heather McLaren, Executive Director, Legislative Unit, Manitoba Health

The issue of access or disclosure in the Healthcare community is not exactly black or white, especially when emotions are running high and people are looking for answers. Issues around what can be provided to whom, the patient's ability to provide consent, and one's relationship to the patient etc. all play an integral role in determining what can and what shouldn't be done.

Continued on page 4 (Déjà Vu)

DÉJÀ VU (CONT'D)

This session is dedicated to helping you determine whether sharing with family or friends is an access issue or a disclosure issue or whether it matters. Join **Heather McLaren** for her presentation that will address:

- What do we mean by 'access' in personal health information legislation?
- What do we mean by 'disclosure' in personal health information legislation?
- What kinds of disclosures might be made to friends or family?
- What privacy rules apply to disclosures to friends and families?

For more information, or to register, please visit the conference website at: http://www.governmentevents.ca/phipd2008/.

WHO IS POKING THROUGH YOUR GARBAGE?

Canada's Supreme Court will deal this fall with an appeal from Alberta where a drug trafficking conviction was upheld by that province's Court of Appeal. At issue is whether a police search of garbage behind someone's residence violates that individual's right of privacy. In her dissenting opinion, **Justice Carole Conrad**, asserted that the only persons with an "implied licence" to remove garbage from a residence would be city garbage collectors. They would be expected to mix that garbage with that collected from others so that it would be largely de-identified. She stated in her dissent: "*Any privacy in garbage that identifies the homeowner directly, such as a discarded bank statement, will also be preserved, although not so completely, by the fact it is now contained within a vast pile of collected detritus that makes it almost impossible to find.*" The citation for that decision under appeal is *R.* v. *Patrick*, 2007 ABCA 308.

WHILE WE ARE TRASH TALKING ...

Attention has recently been focused on the admission by the City of Toronto that its new recycling bins contain a Radio Frequency Identification tag (RFID). It apparently was introduced as a tool to manage the recycling bins and how well that city is doing in terms of recycling. This raises interesting questions of whether it would be used to link addresses and individuals to different batches of garbage. Although it may be used to reward or penalize homeowners that are doing a great deal or too little recycling, could it also operate to challenge the proposition by **Justice Carole Conrad** noted in the case going to the Supreme Court of Canada? Would it make our garbage identifiable for other purposes? Interesting questions…

PEEKING AT YOUR LAPTOP CONTENTS

On your next trip to Minot be prepared to have the contents of your portable electronic devices examined. On July 16, 2008, the U.S.A. Homeland Security's Customs and Border Protection division implemented a new policy to authorize border searches of electronic devices. This includes: "computers, disks, hard drives, and other electronic or digital storage devices." In order to do a thorough search, border officials may detain the devices for a reasonable period of time to perform a thorough search. The policy also permits the copying of passports, driver's licenses, or similar government identification documents without the requirement that illegal activity be suspected.

LEGAL CORNER ON PCC WEBSITE

Saskatchewan lawyers will want to consider adding to their list of Google favourites the new Legal Corner feature on the Privacy Commissioner of Canada website. This useful feature includes a specific focus on court decisions that impact privacy rights of Canadians. You can access the Legal Corner at http://www.privcom.gc.ca/leg_c/index_e.asp.

B.C. INFORMATION AND PRIVACY COMMISSIONER TO PUBLICLY GRADE MINISTRIES' FIPPA COMPLIANCE

B.C. Commissioner **David Loukidelis** has announced that starting with a pilot project later this year, he will begin issuing regular public "report cards" assessing the performance of government ministries in complying with its *Freedom of Information and Protection of Privacy Act* (FIPPA). He also observed that privacy breaches are on the rise. He also stressed that the government must deliver on its stated commitment to ensure that patient privacy is protected in the electronic health record system now being constructed. This approach of "report cards" has been utilized by the federal Information Commissioner for a number of years. This announcement was in Commissioner Loukidelis' Annual Report released in late July, 2008. You can find the Annual Report at www.oipc.bc.ca.

NOVA SCOTIA HEALTH INFORMATION DISCUSSION PAPER

This paper is focused on the proposed *Personal Health Information Act* in that province. The discussion paper is available at www.gov.ns.ca. This follows on the heels of a similar consultation initiated in New Brunswick with respect to a stand-alone health information law in that Atlantic province. A draft health information bill has already been developed in Newfoundland and Labrador. These three new bills appear to be based on Ontario's *Personal Health Information Protection Act* and on the *Pan-Canadian Health Information Privacy and Confidentiality Framework.* In other words, there will be some significant differences between these laws and those early health information laws in Manitoba, Alberta and Saskatchewan.

FUTURE EVENTS

September 4, 2008 -- Youth Privacy Online: Take Control, Make it Your Choice – Toronto, Ontario (visit http://www.verney.ca/ypo2008/ for more details)

September 29, 2008 -- October 3, 2008 - Saskatchewan Right to Know Week - Regina and Saskatoon, Saskatchewan (visit http://www.oipc.sk.ca/RighttoKnow.htm for more details)

September 30, 2008 -- Right to Know Reception featuring **Professor Alasdair Roberts** - Regina, Saskatchewan at the Johnson-Shoyama Graduate School of Public Policy, Window Room (Gallery Building, 2nd Floor, College Avenue and Cornwall Street), from 4:00pm-6:00 pm. No cost.

October 2, 2008 -- Right to Know Event featuring **Suzanne Legault, Assistant Information Commissioner of Canada** - Saskatoon, Saskatchewan at the MLT Theatre in the College of Law, University of Saskatchewan, from 11:30am-12:30 pm. No cost.

October 22, 2008 -- Prairie Health Information Privacy Day 2008 – Winnipeg, Manitoba (visit http://verney.ca/phipd2008/ for more details)

November 3, 2008 -- 2008 Electronic Health Information and Privacy Conference – Ottawa, Ontario (visit http://www.ehip.ca/ for more details)

November 13-14, 2008 -- Internet Law: Latest Developments and Strategies – Vancouver, BC (visit http://www.cwilson.com/seminars/internetlaw_nov08.pdf for more details)

November 24-25, 2008 -- Privacy and Identity Theft Conference – Vancouver, BC (visit www.idconference2008.com for more details)

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